

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE

LESTER EUGENE SILER, JENNY SILER,)
DAKOTA SILER, a minor, by and through next)
friends, LESTER E. SILER and JENNY SILER,)
Plaintiffs,) No.:3:05-cv-341
GERALD DAVID WEBBER, et al.,) (Jarvis/Guyton)
Defendants.)

MOTION

Come the plaintiffs and the defendant Western Surety Insurance Company (“Western Surety”), by and through counsel, and pursuant to Local Rule 5.2, announce the following agreement regarding Western Surety Company’s Motion to Dismiss (R.13):

1. Plaintiffs agree that Western Surety Company's Motion is well taken and should be sustained; and
2. Plaintiffs agree that the Agreed Order attached hereto as Exhibit 1 should be entered by the Court.

Respectfully submitted this 21st day of November, 2005.

/s/ Robert L. Bowman
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CERTIFICATE OF SERVICE

I hereby certify that on November 21st, 2005 a true and exact copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular United States Mail. Parties may access this filing through the Court's electronic filing system.

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s/Robert L. Bowman
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LESTER EUGENE SILER, JENNY SILER,)
DAKOTA SILER, a minor, by and through next)
friends, LESTER E. SILER and JENNY SILER,)
Plaintiffs,) No.:3:05-cv-0341
GERALD DAVID WEBBER, et al.,) (Jarvis/Guyton)
Defendants.)

AGREED ORDER

Come the plaintiffs and the defendant Western Surety Company by agreement, and inform the Court that the defendant Western Surety Company's motion to dismiss this action, as to said defendant only, should be granted because said defendant is not a necessary party;

It is therefore Ordered that the defendant, Western Surety Company's motion is granted and said defendant is dismissed as a party to this lawsuit. Western Surety Company is granted leave to subsequently file a motion pursuant to T.C.A. 25-3-122, Motion by Surety, to take judgment over and against the remaining defendants in this case, in the event Western Surety Company has to pay under its surety bond for, and on behalf of, said defendants.

Entered this ____ day of _____, 2005

District Court Judge

